99TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
99-217

PROVIDING SPECIAL BUDGET PROCEDURES FOR THE FISCAL YEAR 1986 CONGRESSIONAL BUDGET PROCESS

JULY 23, 1985.—Referred to the House Calendar and ordered to be printed

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Mr. DERRICK, from the Committee on Rules, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany House Resolution 231]

The Committee on Rules, having had under consideration House Resolution 231, by nonrecord vote, report the same to the House with the recommendation that the resolution do pass.

I. INTRODUCTION

Congress has yet to adopt a budget resolution for fiscal year 1986. The Senate passed Senate Concurrent Resolution 32, the first concurrent resolution on the budget for fiscal year 1986, on May 9, 1985. The House passed its version of the budget, House Concurrent Resolution 152, on May 23, 1985. The proceedings were vacated, the resolution laid on the table and Senate Concurrent Resolution 32, as amended, passed in lieu thereof on the same day. The House asked for a conference on May 23, 1985 and the Senate agreed to a conference on June 12, 1985. Agreement on a conference report has not yet been reached.

Agreement on a budget resolution is necessary if Congress is to set overall limits on spending and revenue. Final action on a budget resolution also triggers certain enforcement mechanisms. In the conference report on a budget resolution, the overall spending totals are allocated among House and Senate committees. Once a conference report is agreed to, scorekeeping reports can be issued comparing spending measures under consideration with the overall

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spending totals in the resolution. The reconciliation process is also initiated through adoption of a budget resolution. The resolution may direct committees to report legislation changing laws within their jurisdiction to achieve specified amounts of savings.

Failure to adopt a budget resolution prevents consideration of certain types of spending and revenue measures unless section 303 of the Budget Act is waived. Section 303 of the Congressional Budget Act of 1974 prohibits consideration of measures providing new budget authority or new entitlement authority in a fiscal year, or changing the level of revenue or the level of the public debt for a fiscal year if Congress has not adopted a budget resolution for that fiscal year. In the absence of a budget resolution, such legislation would be subject to a point of order.

House Resolution 231 provides that the House-passed first budget resolution for fiscal year 1986, House Concurrent Resolution 152, shall be considered to have been adopted by the Congress for purposes of the Congressional Budget Act. In the House, this would initiate the reconciliation process and the allocation of spending totals among House committees. As a result of this resolution, beginning October 1, 1985, a point of order will lie against any measure that would cause the spending totals or revenue floor to be breached. The resolution would also permit other budgetary measures to be considered without waiving the relevant provisions of the Budget Act. House Resolution 231 would cease to apply whenever Congress completes action on a budget resolution for fiscal year 1986.

The text of the resolution follows:

> *Resolved,* That, for the purposes of the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), as they apply to the House of Representatives, the Congress shall be considered to have adopted H. Con. Res. 152, revising the congressional budget for the United States Government for the fiscal year 1985 and setting forth the congressional budget for the United States Government for the fiscal years 1986, 1987, and 1988, as adopted by the House on May 23, 1985. For the purposes of this resolution, the allocations of budget authority and new entitlement authority printed in the Congressional Record of July 23, 1985 by Representative Gray of Pennsylvania, shall be considered as allocations made pursuant to section 302(a) of the Congressional Budget Act of 1974 (Public Law 93-344).
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> SEC. 2. This resolution shall cease to apply upon final adoption by the House and the Senate of a concurrent resolution on the budget for the applicable fiscal year or years.

II. ANALYSIS

House Resolution 231 provides that the first budget resolution for fiscal year 1986 as adopted by the House on May 23, 1985 (House Concurrent Resolution 152) will be considered to be adopted by the Congress for purposes of the provisions of the Congressional Budget Act of 1974, as they apply to the House of Representatives. The resolution states that the allocation of budget authority and

new entitlement authority among House committees printed in the Congressional Record of July 23, 1985 by Representative Gray, Chairman of the Budget Committee, will be considered as the allocations made pursuant to section 302(a) of the Budget Act. If Congress finally adopts a budget resolution for fiscal year 1986, House Resolution 231 would cease to apply. As a result of adoption of House Resolution 231:

There will be no further need to waive points of order against consideration of FY 1986 general appropriation bills for failure to comply with section 303 of the Budget Act.

In accordance with section 302 of the Budget Act, the Budget Committee will allocate amounts of budget authority and new entitlement authority among House committees. The allocation is to be printed in the Congressional Record of July 23, 1985. House committees must subdivide their allocations by subcommittee or program and must promptly report these subdivisions to the House pursuant to section 302(b).

In accordance with House Concurrent Resolution 152, House committees will be instructed to report reconciliation legislation within thirty calendar days after House Resolution 231 is adopted.

Beginning October 1, 1985, enforcement procedures set out in House Concurrent Resolution 152 will go into effect.

Section 303 waivers

Section 303(a)(1) of the Budget Act prohibits consideration of any measure (including amendments) that provides new budget authority in a fiscal year if a budget resolution for that fiscal year has not been adopted. Since a budget resolution for FY 1986 has not yet been adopted, points of order would lie against consideration of any appropriation bills for FY 1986.

General appropriation bills are privileged. The Chairman of the Appropriations Committee may bring up a reported appropriation bill for consideration at any time. Special orders or rules are needed only if a Budget Act waiver is required or if waivers are desired to protect provisions that may violate other House rules.

Usually, the House considers general appropriations bills in the early summer. By tradition, the House originates appropriation bills. The House must complete action on most general appropriation bills before the August recess to allow enough time for the Senate to act, conferees to meet, Congress to adopt the conference report and the President to sign the individual appropriations acts before October 1, the start of the new fiscal year.

To facilitate consideration of appropriation bills, the House adopted House Resolution 221 on July 16, 1985. House Resolution 221 waived points of order against consideration of any of FY 1986 general appropriation bill reported before July 12, 1985 for failure to comply with section 303 of the Budget Act. Three general appropriation bills were reported before July 12, 1985: H.R. 2942, legislative branch appropriations; H.R. 2959, energy and water development appropriations; and H.R. 2965, appropriations for the Departments of Commerce, State, and Justice and the Judiciary and related agencies.

On July 18, 1985, the Rules Committee reported House Resolution 227 which waived points of order against H.R. 3011, interior appropriations, for failure to comply with section 303.

House Resolution 221 and House Resolution 227 do not waive points of order against amendments for failure to comply with section 303. Amendments that do nothing more than eliminate or decrease an appropriated amount do not provide new budget authority and are not subject to section 303 points of order. A point of order, however, would lie against any amendment that adds or increases budget authority. Only July 17, 1985 a point of order for failure to comply with section 303 was sustained against an amendment to increase an appropriation in H.R. 2965, making appropriations for the Departments of Commerce, Justice, and State and the Judiciary (Cong. Rec., July 17, 1985, daily edition, H5802).

If House Resolution 231 is adopted, points of order against amendments adding or increasing appropriations for failure to comply with section 303 would not apply.

Section 302 scorekeeping

Under section 302(a) of the Budget Act, the joint explanatory statement accompanying a conference report on the budget resolution must include an allocation of total outlays and new budget authority among the House and Senate committees. As soon as practicable after the conference report is agreed to, the House and Senate committees are required by section 302(b) to subdivide their allocations among their subcommittees or by program and report those subdivisions to their respective Houses. No point of order lies against a measure because the committee reporting the legislation did not file its section 302(b) subdivision.

The allocations are used primarily to inform Members of how spending and revenue measures under consideration compare with the budget resolution. Under section 401(b)(2) of the Budget Act, however, if any committee reports a measure providing new entitlement authority in excess of its section 302(b) subdivision, the bill must be sequentially referred to the Appropriations Committee for not more than 15 days.

House Resolution 231 states that the allocation of budget authority and new entitlement authority among House committees printed in the Congressional Record of July 23, 1985 by Representative Gray, Chairman of the Budget Committee, will be considered as the allocations made pursuant to section 302(a) of the Budget Act. Until there is a conference report on the budget resolution, the allocation printed in the Record will serve as the allocation for purposes of section 302(a). House committees must promptly report their subdivisions, though there are no sanctions if a committee fails to report.

Reconciliation

Section 3 of House Concurrent Resolution 152, the first budget resolution for FY 1986 as adopted by the House on My 23, 1985, instructs ten committees of the House to report reconciliation legislation not later than thirty calendar days after final action of House Concurrent Resolution 152. There are no instructions to Senate committees.

By providing that House Concurrent Resolution 152 shall be considered to have been adopted, House Resolution 231, in effect, directs the ten committees of the House to report changes in laws within their jurisdiction to achieve specified savings.

Points of order in effect October 1, 1985

Section 311 of the Budget Act provides that points of order will lie against measures which would cause the spending totals or the revenue floor set forth in the *second* budget resolution to be exceeded. Section 4 of House Concurrent Resolution 152 provides for an automatic second budget resolution. This means that effective October 1, 1985, House Concurrent Resolution 152 would be deemed to be the second budget resolution for FY 1986 for purpose of section 311 of the Budget Act. Also, section 4 of House Concurrent Resolution 152 provides that section 311 does not apply if a measure would not cause the appropriate section 302(a) allocation of new discretionary budget authority or new entitlement authority to be exceeded.

By providing that House Concurrent Resolution 152 shall be considered to have been adopted by the Congress, House Resolution 231 also provides for the automatic second budget resolution.

Final adoption of the first budget resolution for FY 1986 would not provide a point of order against measures that would exceed the reporting committee's allocation. No point of order against measures that exceed the total spending ceiling would apply prior to October 1, 1985. If House Resolution 231 is adopted, the situation with regard to points of order would not change.

Debt-limit legislation

House Rule XLIX provides that a joint resolution providing for a change in the statutory limit on the debt shall be deemed to have passed the House whenever Congress adopts a budget resolution recommending a change in the statutory limit on the debt.

House Resolution 231 provides that the first budget resolution for FY 1986 as adopted by the House shall be considered to have been adopted for purposes of the Congressional Budget Act. The resolution does not state that the budget resolution shall be considered to have been adopted for purposes of House Rule XLIX and, therefore, Rule XLIX would not apply. It will be necessary to consider separate debt-limit legislation reported from the Committee on Ways and Means unless Congress completes final action on a budget resolution before the debt limit is reached.

III. COMMITTEE CONSIDERATION

The Committee on Rules met on July 23, 1985 to consider House Resolution 231. The Committee heard testimony from Representatives Whitten, Conte, Gray, McKay, and Morrison. By a voice vote, a quorum being present, the Committee ordered reported House Resolution 231.

IV. COMMITTEE COST-ESTIMATE

Clause 2(l)(3)(B) of Rule XI requires each committee report on a measure providing new budget authority or increased tax expendi-

tures to contain any statement required by section 308(a) of the Congressional Budget Act of 1974. This measure does not provide new budget authority nor increase tax expenditures.

Clause 7(a) of Rule XIII requires committees to include their own cost estimates in certain committee reports. Clause 7(d) of Rule XIII exempts the Committee on Rules; nonetheless, the Committee generally examines the costs that would be incurred in carrying out the legislation it considers. The Committee notes that this simple resolution has no direct costs to the federal government.

V. INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(l)(4) of Rule XI, the Committee on Rules finds that House Resolution 231 has no significant inflationary impact.

VI. COMMITTEE OVERSIGHT FINDINGS

Clause 2(l)(3)(A) of Rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of Rule X. The Committee has made no special oversight findings in connection with the resolution. The Committee would refer to its statement under the section of this report titled "Analysis."

VII. OVERSIGHT FINDINGS OF THE COMMITTEE ON GOVERNMENT OPERATIONS

No findings or recommendations made, pursuant to clause 4(c)(2) of Rule X, by the Committee on Government Operations have been received by the Committee on Rules. Therefore, no summary pursuant to clause 2(l)(3)(D) of Rule XI is included.

VIII. CHANGES IN EXISTING LAW MADE BY HOUSE RESOLUTION 231

Clause 3 of Rule XIII requires the report of each committee on a bill or joint resolution to contain a comparative print relating to the measure. Since House Resolution 231 is a simple resolution, this provision does not apply.

IX. CHANGES IN THE RULES OF THE HOUSE MADE BY HOUSE RESOLUTION 231

Clause 4(d) of Rule XI requires reports from the Committee on Rules, on resolutions amending the Rules of the House of Representatives, to contain a comparative print indicating changes in the existing rules. Although House Resolution 231 would affect the rules of the House, it would do so in a manner that does not directly amend or permanently change the rules.

X. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Clause 2(l)(3)(C) of Rule XI, requires the Committee to include a cost estimate prepared, pursuant to section 403 of the Congressional Budget Act of 1974, by the Director of the Congressional Budget Office.

Section 403 requires the Director "to the extent practicable", to prepare and submit an estimate and comparison on each bill or resolution of a public character. No CBO estimate was prepared.

XI. MINORITY VIEWS

We strongly oppose the adoption of House Resolution 231, providing special budget procedures for the fiscal 1986 congressional budget process. We do so because we think it would be a bad precedent for the House to formalize a procedure that could permanently convert the "congressional" budget process into separate House and Senate budget processes that may never be reconciled.

To anoint the House-passed first budget resolution as the *congressional* budget resolution for the purposes of the provisions of the Budget Act will take all pressure off the House conferees to the budget conference to ever resolve their differences with the Senate. While it may be argued that it is better to have a House budget resolution in effect than no budget resolution at all, the long-term effect may actually be worse than having no budget resolution because the unilateral approach will only defer and complicate fiscal differences and difficulties between the two Houses.

This resolution is really being offered as a matter of convenience in paving the way for considering further appropriations bills. It is not only a blanket waiver of section 303(a) of the Budget Act which requires a budget resolution to be in place before appropriations bills can be considered, but it actually would permit spending *increase* amendments to be offered to appropriations bills. Under current procedure, even though the House may waive section 303(a) against individual appropriations bills, such waivers do not cover amendments which provide additional budget authority, i.e., spending increase amendments. Therefore, adoption of this resolution can be interpreted as authorizing budget-busting amendments that are currently prohibited. This would take the House in exactly the opposite direction it had originally charted in attempting to come-up with significant budget savings in fiscal 1986 and beyond.

Even if the House should manage to hold the line against such amendments, the fact remains that the savings projected in the House-passed budget resolution are squishy soft and suspect at best. To lock the House into that pattern would be to run-up the white flag on achieving more meaningful, real savings in its ongoing negotiations with the other body.

In conclusion, we hope the House will reject this special budget procedures resolution and see it for what it really is: the first step in the dismantlement of the *"Congressional* Budget Act of 1974." Calling the House budget the congressional budget won't make it the congressional budget; it will only further exacerbate relations between the two bodies and make it more difficult to achieve a truly *concurrent* resolution of our budgetary differences.

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